

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
BECKLEY**

**SCOTT CAFEGO,  
Plaintiff,**

**v.**

**CIVIL ACTION NO. 5:13-cv-11023  
(Removed from the Circuit Court  
of Raleigh County, West Virginia,  
Civil Action No. 13-C-266)**

**COMMUNITY HOLDINGS OF WEST VIRGINIA, INC.,  
d/b/a THE REGISTER HERALD,  
a/k/a BECKLEY NEWSPAPERS,  
Defendant.**

**NOTICE OF REMOVAL**

COME NOW the Defendant, COMMUNITY HOLDINGS OF WEST VIRGINIA, INC., d/b/a THE REGISTER HERALD, a/k/a BECKLEY NEWSPAPERS (“Defendant”), by counsel, and give notice of its removal of the above-captioned civil action now pending in the Circuit Court of Raleigh County, West Virginia, as Civil Action No. 13-C-266, pursuant to 28 U.S.C. §1332, §1441, and §1446. Defendant state the following in support of its removal of the above-captioned civil action:

**Jurisdiction**

1. This Court has original jurisdiction over this civil action pursuant to 28 U.S.C. § 1332(a), and the matter may be removed to this Court by the Defendant pursuant to the provisions of 28 U.S.C. §§ 1441, 1446, because it is a civil action between citizens of different states and the matter in controversy herein exceeds the sum of \$75,000.00, exclusive of interests and costs.

(a) Defendant is a registered Delaware corporation, and its principal place of business is located in Montgomery, Alabama.

(b) Plaintiff is a citizen and resident of Fayette County, West Virginia. Complaint, ¶ 1. The Complaint is attached hereto as Exhibit “A”.

(c) The amount in controversy is in excess of \$75,000.00, exclusive of interest and costs, and thus meets the requirements for the Court to assert diversity jurisdiction, as demonstrated in ¶¶ 2 - 4, *infra*.

### **Grounds for Removal**

2. Plaintiffs have brought this civil action styled, *Scott Cafego v. Community Holdings of West Virginia, Inc., d/b/a The Register Herald, a/k/a Beckley Newspapers*, Civil Action No. 13-C-266, seeking damages arising out of the publication of a news article reporting the arrest and criminal charges against an individual for sexual assault and abuse, which Plaintiff alleges that “Defendant, in reckless disregard of the truth, placed Plaintiff’s picture squarely in the center of the article in question, thereby associating the Plaintiff with the heinous sexual allegations of the real perpetrator.” Complaint, ¶ 5.

3. Plaintiff’s Complaint was filed on or about April 10, 2013 in the Circuit Court of Raleigh County, West Virginia. Plaintiff’s Complaint prays for an unspecified amount of damages. Plaintiffs did not file a pre-removal binding stipulation limiting damages, pursuant to *McCoy v. Erie Insurance Co.*, 147 F. Supp.2d 481 (S.D. W. Va. 2001).

4. Plaintiff seeks damages “in an amount sufficient to compensate him for: (i) General damages according to proof; (ii) Punitive damages; (iii) Interest allowed by law; (iv) Costs of suit; and (v) For such other and further relief as the facts and circumstances of the case may warrant.” Complaint, pg. 2. Plaintiff alleges that Defendant has “held the Plaintiff up to ridicule, contempt, shame, disgrace, degraded him in the estimation of the community, and induced an evil opinion of him in the minds of right thinking people.” Complaint, ¶ 8. Further,

Plaintiff alleges that Defendant has “exposed the Plaintiff to hatred, contempt, [and] ridicule”, and, as a result, “Plaintiff has suffered loss of reputation, shame, mortification, all to his detriment or damage.” Complaint, ¶ 10, 12. Accordingly, the preponderance of the evidence shows that that the amount-in-controversy in this matter is in excess of \$75,000, exclusive of interests and costs.

5. Service was accepted by the Office of the West Virginia Secretary of State as Defendant’s statutory attorney-in-fact on or about April 15, 2013. Additionally, Plaintiff served Frank Wood, publisher of Beckley Newspapers, on April 12, 2013. This Notice of Removal is being filed within thirty (30) days after Defendant was served; therefore, this Notice of Removal is timely filed under 28 U.S.C. § 1446(b).

6. Complete diversity exists between the parties as Plaintiff is a resident of the State of West Virginia, and Defendant is a resident of both the State of Delaware and Alabama.

7. A certified copy of the docket sheet for Civil Action No. 13-C-266 is attached hereto as Exhibit “B.”

7. Defendants have given notice to the Clerk of the Circuit Court of Raleigh County, West Virginia of this removal and a copy of the Notice of Filing of Notice of Removal is attached hereto as Exhibit “C.”

8. This Notice of Removal does not waive objections to defects in service of process, jurisdiction, venue, or any other defense, all of such objections being specifically reserved by Defendant.

9. Defendant have this day filed their Corporate Disclosure Statements, pursuant to Federal Rule of Civil Procedure 7.1, indicating that it has no “parent” corporation and no corporation owns more than 10% of their stock, attached hereto as Exhibit “D.”

**WHEREFORE**, Defendant COMMUNITY HOLDINGS OF WEST VIRGINIA, INC., d/b/a THE REGISTER HERALD, a/k/a BECKLEY NEWSPAPERS has removed this action from the Circuit Court of Raleigh County, West Virginia, to the United States District Court for the Southern District of West Virginia, at Beckley.

**COMMUNITY HOLDINGS  
OF WEST VIRGINIA, INC.  
By Counsel**

/s/ Stuart A. McMillan  
Stuart A. McMillan, Esquire (SBID #6352)  
Jared T. Moore, Esquire (SBID #11988)  
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Defendant.**

**CERTIFICATE OF SERVICE**

I, Stuart A. McMillan, counsel for defendants, do hereby certify that on the 10th day of May, 2013, I electronically filed a **Notice of Removal** with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following CM/ECF recipients:

Philip J. Tissue, Esquire  
303 Jones Avenue  
Oak Hill, West Virginia 25901  
*Counsel for Plaintiff*

**COMMUNITY HOLDINGS  
OF WEST VIRGINIA, INC.  
By Counsel**

/s/ Stuart A. McMillan  
**Stuart A. McMillan, Esquire (SBID #6352)  
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